

# Mills Act 101

## An Incentive for Preserving Your Community's Past

Presented by Shannon Lauchner  
California Office of Historic Preservation  
San Jose, CA  
March 24, 2017

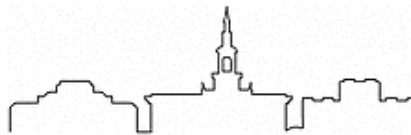




Sourisseau Academy  
*for State and Local History*

“Successful historic preservation programs make available positive incentives, providing property owners financial & technical tools that help give new life to historic properties.”

-City of Los Angeles Office of Historic Resources



PRESERVATION ACTION COUNCIL OF SAN JOSE

*Dedicated to Preserving San Jose's Architectural Heritage*

# What is the Mills Act?

A local property tax incentive program intended to encourage rehabilitation and maintenance of historic buildings.





# Where is the Mills Act?



- The law known as the Mills Act is found in the California Government Code, Article 12, Section 50280 through 50290.
- It is state enabling legislation that creates loose framework for Mills Act programs.
- All of the authority for the program is given to local governments.



# Mills Act History



- 1972-** State Senator James Mills authored the “Mills Act” in response to the plight of the historic Hotel Del Coronado.  
-Modeled the bill on the Williamson Act.
- 1973-** The Mills Act was determined unconstitutional.
- 1976-** Voters approved a constitutional amendment and local programs were adopted.



- 1985-** The act was amended to reduce the minimum contract period to 10 years (from the original 20), eliminate the mandatory public access, & reduce the penalty for contract cancelation to 12.5% of the fair market value (from 50%).
- 1993-** The act was amended to define restoration & rehabilitation.
- 2012-** The act was amended to include mandatory property inspections (before a contract is issued & every five years after) & to allow local governments to charge a fee for administrative cost recovery.





# Mills Act Basics



# Mills Act Roles



- Local governments have all of the authority and disputes are handled by the courts.
- The Office of Historic Preservation advises local governments and property owners.
- The Board of Equalization advises and interprets the law for County Assessors.

# How Does The Mills Act Work?

A local government with a Mills Act Program may enter into a contract with a private property owner to restore, rehabilitate, or maintain their property in exchange for property tax savings.





# Mills Act Framework



- Local governments administer the program:
  - Control the application process
  - Charge fees
  - Perform inspections
- Properties must meet the definition of a “qualified historical property.”



# Mills Act Framework

- Properties must be privately owned & subject to property tax.
- Contracts run with the title of the property.
- Contracts are for a minimum of 10 years & extend one year annually-unless either party chooses not to renew.
- The County Assessor calculates the Mills Act tax reassessment annually.



# Framework Specifics

# What Qualifies?

A “*qualified historical property*” is a privately owned property that is not exempt from property taxation and is either:

- Listed in the National Register of Historic Places  
or
- Listed in any state or local register of historical or architectural resources, sites, or landmarks:
  - California Register of Historical Resources
  - California Historical Landmarks
  - California Points of Historical Interest
  - Locally designated properties (such as City of San Jose’s City Landmarks).



**Local government can narrow the definition of what qualifies!**



# Non-Renewal & Cancellation

## Non-Renewal

Once either party notifies the other, in writing, of the non-renewal the tax benefit reduces by about 1/10 annually. By year 10, the property owner should be paying the same tax they would have paid before entering the Mills Act contract.



## Cancellation

Local governments can enforce a contract by judicial means. If that fails a contract can be cancelled for breach after a hearing. There is a penalty of 12 ½ percent of value of property for owners whose contract is cancelled.





Mathematics

Mills Act  
Mathematics

# Annually the Assessor's Office reviews:



1. **Factor Base Year Value**  
(prior change in ownership)
2. **Current Fair Market Value**  
(based on comparable sales)
3. **Mills Act or Restricted Value**  
(based on real or potential rental income)

The lowest of the 3 values is used to calculate annual property tax.



[illegible]

- Fair Rent - Anticipated - Maintenance Cost = **Net Operating Income**
- Interest Rate (determined annually by the Board of Equalization) + Risk (set by Mills Act Statute) + Amortization Rate (determined by the Assessor) = **Restricted Capitalization Rate**



# Local Government Issues

# Why Adopt a Mills Act Program?

- Helps retain & maintain historic properties.
- Can incentivize the revitalization of downtown commercial districts.
- Preserves historic fabric which helps heritage tourism.
- The program is flexible.
- The program is voluntary (both for local governments and property owners).
- Can foster preservation of historic neighborhoods.
- It is the only statewide incentive available to single family residential property owners at this time!!!!





# Implementing a Program



- Local governments can adopt a Mills Act Program by either adopting an ordinance or a resolution.
- The program can target certain properties by limiting what qualifies.
- Local governments can choose their method of inspection and level of enforcement.



# Statewide Perspective

- There are approximately 90 Mills Act programs statewide.
- Some local governments have a Mills Act program & no other historic preservation program.
  - County of Orange





# Mills Act Programs in Contrast



No two programs are a like & the statewide variation can be dramatic!

# Common Areas of Difference:

## Contracts:

- San Diego has over 1000 contracts
- Oakland has less than 50



## Fees:

- Some local governments still do not charge a fee for Mills Act applications.
- Fees have been reported as high as \$6500
- Most local governments charge a fee to recover some administrative costs.



# Current Issues of Interest!

- 2012 amendment to include property inspections by the local government before a contract and every five years thereafter.
  - Local governments are being very creative in their efforts to meet this new requirement.

- 
- Requiring completion of rehabilitation work prior to contract.
    - Some cities manage their program in this manner.
    - Is this acceptable?







# Questions & Discussion

# Thank You!

## Contact Information:

Shannon Lauchner, State Historian II  
Local Government & Environmental Compliance Unit  
California Office of Historic Preservation  
[shannon.lauchner@parks.ca.gov](mailto:shannon.lauchner@parks.ca.gov)  
(916)445-7013  
[ohp.parks.ca.gov](http://ohp.parks.ca.gov)

